

WALTER WILLIAMSON

Page 174

1 Q. -- by Allegheny Valley?
 2 MR. WALKER: I'm going to object.
 3 A. -- with the right exchange of patients, you
 4 know, where you might send a -- maybe a
 5 patient, we couldn't do it at Allegheny Valley,
 6 but if we sent them to Allegheny General, why,
 7 there might be a phase in there if they are
 8 supposed to be in the hospital for ten days,
 9 why, after five days they could come back and
 10 continue there, stay at Allegheny Valley
 11 Hospital.
 12 Of course there are some other
 13 things, I'm trying to think of some other
 14 things that might not even appear here. I
 15 don't know whether that was when the skilled
 16 nursing facilities were in hospitals and, here
 17 again, we thought we could pick up those --
 18 yeah, skilled, SNFUs.
 19 Q. Did you believe at the time prior to the merger
 20 when you were discussing the idea with the
 21 folks from AHERF that AHERF had funds available
 22 to it to subsidize Allegheny Valley if it
 23 encountered financial troubles in the future?
 24 A. I think the -- they certainly expected us to
 25 carry our own, but, again, I think we looked at

Page 175

1 things here like maybe purchasing power to
 2 negotiate with insurance companies would
 3 improve, the general things I think that you
 4 would see anybody why they are going to
 5 consolidate, they can save expenses from the
 6 administration.
 7 Q. Do you recall having a discussion with the
 8 Allegheny Valley Hospital board level prior to
 9 the merger about the financial condition of
 10 AHERF as it was reflected in the financial
 11 statements that you had provided?
 12 A. We had a couple number crunchers on the board
 13 at the time, and with the information that we
 14 had, yes.
 15 Q. So that was something that was a topic of
 16 discussion, was AHERF a financially sound
 17 organization and should we consider that before
 18 deciding to merger with them --
 19 A. Yes.
 20 Q. -- was that part of the discussion?
 21 A. (Nodding head up and down.)
 22 Q. Yes?
 23 A. Yes. Of course when you started to -- I
 24 shouldn't say of course. The other thing is,
 25 and I think you learn maybe the hard way,

Page 176

1 because in banking I was used to audits, and we
 2 had our own internal audit, and I thought it
 3 was very good is that sometimes the figures
 4 that you looked at that an auditor has to do,
 5 they have to get good figures to start with
 6 too, and I think a lot of that came out later
 7 on, such as these funds that I was talking
 8 about that might have been endowment, should
 9 they really have been placed there, that type
 10 of thing.
 11 Q. Have you ever sat on the audit committee of any
 12 board of directors or trustees that you've been
 13 a part of?
 14 A. The audit -- yes, the audit committee we did
 15 not have I think -- I'm trying to think back,
 16 Allegheny Valley Hospital would have been
 17 through the finance committee. I'm not sure
 18 whether we had strictly audit committee. I
 19 can't --
 20 Q. And none of the other not-for-profit boards
 21 that you've talked about earlier today, you
 22 didn't sit on audit committees for those
 23 boards?
 24 A. Maybe sat on the finance committee, but that
 25 would have been about it.

Page 177

1 Q. And the finance committee in some of those
 2 cases may have functioned --
 3 A. Right.
 4 Q. -- as an audit committee as well, is that what
 5 you are saying?
 6 A. Well, they would maybe have functioned at, but
 7 they would have used outside accountants at
 8 that time, such as the Swedenborg Foundation,
 9 yes, we also used an outside bookkeeping or
 10 accountants.
 11 Q. Did Allegheny Valley Hospital have audits of
 12 its financial statements performed by
 13 independent auditors?
 14 A. Yes.
 15 Q. And was that Coopers & Lybrand as the outside
 16 auditor?
 17 A. Yeah, I think it was at that time.
 18 Q. At the time of the merger between Allegheny
 19 Valley Hospital and AHERF, did you have any
 20 understanding that Coopers & Lybrand was the
 21 outside auditors for AHERF?
 22 A. I don't remember at that time. At that time we
 23 had the financial officer who was with the
 24 bank, Joe Calig handled that end of it, and I
 25 felt that he was very good in that, and I had a

45 (Pages 174 to 177)

WALTER WILLIAMSON

Page 178

1 lot of confidence in him.
 2 Q. Do you know if at the time of the merger if
 3 folks from Coopers & Lybrand were advising
 4 AHERF about merging with Allegheny Valley?
 5 A. I have -- I don't know.
 6 Q. Mr. Walker may have asked you this question
 7 earlier, and I don't mean to repeat him, but I
 8 just want to make sure I'm clear.
 9 You never served on the audit
 10 committee of the AHERF board, did you?
 11 A. No.
 12 Q. And you never served on the finance committee
 13 of the AHERF board; correct?
 14 A. No.
 15 Q. And at some point in time, those two committees
 16 merged and became one committee called the
 17 finance and audit committee of the AHERF board?
 18 A. I think that might have been even after the
 19 reorganization or after the bankruptcy that we
 20 filed.
 21 Q. But you never served on that committee --
 22 A. No.
 23 Q. -- is that correct?
 24 A. No.
 25 Q. Did you have an understanding of what the role

Page 179

1 of the audit committee of the AHERF board was
 2 at the time you served on the AHERF board?
 3 A. I guess I would have to look back, not just
 4 there, but I think that the audit committee
 5 would not only choose a outside accounting firm
 6 to do that, but also would go over the reports,
 7 you know, maybe with them, you know, to see
 8 what the outcomes might be.
 9 Q. Do you recall being at AHERF board meetings
 10 where someone from the AHERF audit committee
 11 reported on what the committee was doing with
 12 respect to the audit being conducted by the
 13 outside auditors?
 14 A. I think there was a short at one time. I can't
 15 remember who was the head of the audit
 16 committee, whether it was Mr. Nimick or
 17 Mr. Barnes, that they had been audited, and I
 18 don't think that was -- and everything looked
 19 good, we didn't have any reports back yet.
 20 Q. I'm going to show you what's been previously
 21 marked as Exhibit No. 58, and I will represent
 22 to you for the record that these are the
 23 consolidated financial statements for the year
 24 ended June 30, 1997, for AHERF and its
 25 affiliates.

Page 180

1 Do you recall having seen these
 2 financial statements before?
 3 A. No, I think -- no.
 4 Q. Well, you can put them aside then.
 5 But was it your understanding that it
 6 was the one function of the audit committee of
 7 the AHERF board was to interact with the
 8 entity's outside auditors?
 9 A. Yes.
 10 Q. And do you recall ever being at any meeting of
 11 the AHERF board where there were
 12 representatives of Coopers & Lybrand in
 13 attendance at the meeting?
 14 A. No. I -- I took a while there because I do
 15 know that when we had them, that our finance
 16 committee, this is Allegheny Valley Hospital,
 17 would review the report with them, and I think
 18 that -- I'd have to look at our old Allegheny
 19 Valley Hospital, but even then we would report
 20 to the board, and they might go over if there
 21 were any exceptions.
 22 Q. And this is -- this is before the merger?
 23 A. Right, but I think that was also -- and they
 24 were very willing to do that for some -- that
 25 if we wanted them to, they were available to do

Page 181

1 it. I don't think it was like, well, here's
 2 your audit report and we are going to report
 3 right to the board, but that if you would like
 4 us to come and explain our report, we will.
 5 Q. Okay. Again, that's at Allegheny Valley --
 6 A. Right.
 7 Q. -- before the merger, but you don't recall any
 8 representatives of Coopers & Lybrand ever
 9 attending an AHERF board meeting --
 10 A. No.
 11 Q. -- to go over audited financial statements?
 12 A. No.
 13 Q. Are you familiar with the term clean opinion as
 14 that term is used in auditing parlance? As a
 15 former banker, I guess I shouldn't ask you.
 16 A. Yeah, I would say that to me a clean opinion
 17 means that I think it says somewhere in there
 18 it says with the records and whatever we have
 19 been -- have been submitted to us, that we
 20 have -- do not find any exceptions or find
 21 the -- or find exceptions.
 22 But I can remember that's -- I can't
 23 remember who it was said, you know, this is
 24 clean and this is why we can say this, but
 25 that's why we have I'll call it the disclaimer

WALTER WILLIAMSON

Page 182

1 in a way, bad word I know, but it's like a
 2 computer, if you have garbage in, garbage out.
 3 If you don't give me the stuff, I can't audit
 4 it.
 5 Q. Did you ever hear from anyone during your
 6 tenure on the AHERF board that Coopers &
 7 Lybrand issued something other than a clean
 8 opinion on the financial statements presented
 9 to them by AHERF for audit?
 10 A. No.
 11 Q. Do you have any view as to what significance
 12 there is to a clean opinion on -- on audited
 13 financial statements?
 14 A. State it again.
 15 Q. Okay. Let me try and be more clear.
 16 What significance, if any, to you is
 17 a clean opinion on an entity's audited
 18 financial statements?
 19 A. That we have audited the information that you
 20 have given us, and this is our opinion of it.
 21 Now, of course, even with that, sometimes
 22 they'll say, you know, this is great or change,
 23 but I think when I look at an outside
 24 accounting firm or auditing, that is their --
 25 whatever you -- whatever you give them, they

Page 183

1 are going to look at.
 2 Q. Did you have any expectations or any -- maybe a
 3 better word is understanding as to the types of
 4 things that auditors should bring to the
 5 attention of a board if they find during the
 6 course of their audit of an entity's financial
 7 statements?
 8 A. I guess it would take some continuity at times,
 9 so that of course I imagine that auditors would
 10 look at back records that this looks like it's
 11 gone up or down considerably or why -- even as
 12 far as some expenses, and what else would be in
 13 that. I'm trying think of --
 14 Q. Well, let me ask you --
 15 A. Back at the bank, even though I was in human
 16 resources, they still came in and audited the
 17 payroll and insurance. I can remember at one
 18 time -- and even purchasing, and said do you do
 19 this, why don't you do this, you know.
 20 Q. Well, did you expect that if the auditors
 21 during the course of an AHERF audit had found
 22 fraud --
 23 A. Yes.
 24 Q. -- in the presentation of financial statements
 25 that that was something they should have

Page 184

1 brought to --
 2 A. Yes, they should have.
 3 Q. -- brought forward?
 4 A. Right.
 5 MR. WALKER: Objection.
 6 Q. And if the auditors had found material
 7 misstatements in the financial records of
 8 AHERF, did you expect the outside auditors to
 9 bring that to the attention of the board?
 10 A. Yes.
 11 Q. If the auditors found intentional misstatements
 12 in the financial statements that were presented
 13 to them by AHERF for review, did you expect --
 14 A. Yes.
 15 Q. -- the auditors to bring that to the attention
 16 of the board?
 17 MR. WALKER: Objection.
 18 A. (Nodding head up and down.)
 19 Q. And if the auditors came across issues
 20 reflecting on the integrity of financial
 21 management of AHERF during the course of their
 22 audit, did you expect them to bring that to the
 23 attention of the board?
 24 A. Yes.
 25 Q. At any time during your tenure on the AHERF

Page 185

1 board, did you ever come to learn that the
 2 auditors had told the audit committee or the
 3 board that they had found instances of any of
 4 those examples we just talked about?
 5 A. No.
 6 Q. Do you have any recollection that at some point
 7 in time the AHERF board of directors decided
 8 not to continue retaining the services of
 9 PriceWaterhouseCoopers, which at that time had
 10 succeeded to Coopers & Lybrand?
 11 A. State that again?
 12 Q. Let me back up. At some point in time, are you
 13 familiar with the concept that Coopers &
 14 Lybrand merged with PriceWaterhouse --
 15 A. Okay.
 16 Q. -- and formed the entity called
 17 PriceWaterhouseCoopers?
 18 A. Right.
 19 Q. And at some point in time, did you or do you
 20 recall that at some point in time the AHERF
 21 board decided that they were not going to
 22 continue retaining the services of an entity
 23 that was now PriceWaterhouseCoopers as the
 24 outside auditors of AHERF?
 25 A. No.

47 (Pages 182 to 185)

WALTER WILLIAMSON

Page 186

1 Q. I'm going to show you a document that's been
2 previously marked as Exhibit 1992, which for
3 the record is sort of a skeleton form of
4 meeting minutes it appears for a meeting of the
5 board of directors of AHERF that was held on
6 August 27th, 1998, and ask you if you've ever
7 seen this document before?

8 - - - -

9 (The witness reviewed the Exhibit.)

10 - - - -

11 A. I don't remember that discussion at all.

12 Q. All right. Well, let me ask you a few
13 questions. I know you've read ahead.

14 A. Oh, I'm sorry.

15 Q. That's all right. I will represent to you that
16 in all the millions of pages of documents that
17 have been produced in this litigation, we have
18 not found a complete set of minutes from this
19 particular meeting, but it does appear that
20 there was a meeting held on August 27th, 1998,
21 of the AHERF board.

22 On this skeleton form of minutes, you
23 are listed as a member present. Do you have
24 any recollection of attending an AHERF board
25 meeting in the August 27th, 1998 time period?

Page 187

1 A. If it said I was there, I was there.

2 Q. All right. And, again, I can't represent to
3 you that you were, in fact, there. These
4 aren't the official minutes. I'm asking for
5 your best recollection.

6 There is on the last page of this
7 document some handwriting. Do you recognize
8 this handwriting?

9 A. No, I don't.

10 Q. It's not your handwriting?

11 A. (Shaking head side to side.)

12 Q. If you look on that last page, under Roman
13 numeral V there, it says, Audit committee
14 report, then across the way it says D. Barnes,
15 and then the handwriting says, Met this a.m.,
16 discussed two issues, will meet again Tuesday
17 to discuss quality of statements.

18 And then below in handwriting it
19 says, Also discussed auditors. C & L has been
20 for long time. Merged W slash, presumably W, P
21 & W. Then there's a little A with a circle
22 around it, to retain. Think will have serious
23 conflicts with, W/, C & L. R-E-C, period,
24 changing.

25 Do you recall if there was a

Page 188

1 discussion at any meeting that you attended
2 about the need to change outside auditors?

3 A. No.

4 Q. Do you recall being in an AHERF board meeting
5 where there was any discussion of the quality
6 of the audit work performed by Coopers &
7 Lybrand of the AHERF entities?

8 A. No, no, I don't.

9 Q. Do you recall there ever being a vote of --

10 A. Changing auditors?

11 Q. Yes.

12 A. No.

13 Q. If you look at that handwriting, further down
14 it says, right below where it says R-E-C,
15 period, changing, it says, KPMG or Deloitte,
16 both good firms, decided on KPMG for W, period.
17 Deloitte to do procedures for E, period, if
18 Court approves.

19 Does that refresh your recollection
20 where perhaps the auditors for the western
21 entities were changed from
22 PriceWaterhouseCoopers to KPMG?

23 A. No.

24 Q. All right. And you don't recall ever being
25 asked to vote on an issue of whether --

Page 189

1 A. To change?

2 Q. -- to change auditors?

3 A. (Shaking head side to side.)

4 Q. No?

5 A. You mean nobody's claimed this yet?

6 Q. Do you recall a time when there was a press
7 release announcing that the audited financial
8 statements for AHERF for fiscal year 1997
9 should no longer be relied upon?

10 A. A press release?

11 Q. Or an announcement to the public?

12 A. I remember -- not to the public essentially. I
13 remember at a meeting, I think in a meeting it
14 was discussed that they were -- that they were
15 going public with it, that they hadn't released
16 that information. I think that I can remember
17 that much.

18 Q. Do you recall any specifics of that discussion?

19 A. No.

20 Q. Do you recall any discussion of the quality of
21 the work performed by the auditors?

22 A. No, not at that time.

23 Q. At any time?

24 A. No.

25 Q. I'm going to show you a document that's been

WALTER WILLIAMSON

Page 190

1 previously marked as Exhibit 1289 and see if
2 this refreshes your recollection about that
3 issue a little bit more.

4 For the record, this is a two-page
5 document. It has a memo from Anthony Sanzo as
6 the first page, and the date of the memo is
7 September 2nd, 1998. The second page appears
8 to be a press release, it says for immediate
9 release, and the title is AHERF Considers
10 Restatement of Consolidated Financial
11 Statements.

12 - - - -

13 (The witness reviewed the Exhibit.)

14 - - - -

15 Q. The first paragraph of this press release
16 states, The finance and audit committee of the
17 board of trustees of Allegheny Health,
18 Education and Research Foundation, together
19 with new senior management of AHERF and
20 PriceWaterhouseCoopers, LLP, are reviewing
21 certain accounting and reporting issues related
22 to the June 30, 1997, consolidated financial
23 statements of AHERF and its affiliates which
24 they believe may require revision.
25 Accordingly, pending completion of their

Page 191

1 review, no further reliance should be placed on
2 the financial statements or the Coopers &
3 Lybrand report thereon, and it goes on from
4 there.

5 Does this refresh your recollection
6 at all about any discussion that you may have
7 been involved with concerning the issue of
8 whether the '97 audited financial statements
9 could continue to be relied upon?

10 A. This might have been when they were -- might
11 have come up at a meeting when they talk
12 about -- when you talk about earnings and
13 trading games from certain restricted funds
14 might have been the -- what things I had
15 mentioned before, endowments or trusts that may
16 have been incorrectly reported as net assets.

17 Q. And you are reading from this --

18 A. Right.

19 Q. -- news release that I just read from?

20 A. Right, yeah, yeah. No, that might have been
21 where I got that.

22 Q. Do you recall who would have reported on that
23 at that meeting?

24 A. No. I can remember that even after that there
25 was a lot of -- or not a lot, as to the legal

Page 192

1 document under which those restricted funds or
2 trust funds had been given to the -- I think
3 most of them were Allegheny General Hospital's
4 that were, you know, merging with AHERF.

5 Q. Do you recall any representatives of either
6 Coopers & Lybrand or PriceWaterhouse or
7 PriceWaterhouseCoopers making any presentation
8 in that regard?

9 A. At that point?

10 Q. Yeah.

11 A. That was -- no, I don't remember them.

12 Q. At any point in time, you don't recall anyone
13 from Coopers or PriceWaterhouse or
14 PriceWaterhouseCoopers?

15 A. I think -- I think if they had, it would have
16 been through the audit committee and the audit
17 and finance committee would have handled that.

18 Q. Well, as a member of the board of AHERF, did
19 you look to the audit committee to be the ones
20 to deal with issues related to audits of AHERF
21 and its affiliates?

22 A. Yes.

23 Q. And any issues arising therefrom; correct?

24 A. Right. I looked to the committee to do that.

25 Q. Was there anyone in particular on the committee

Page 193

1 that you looked to or the committee as a whole?

2 A. The committee as a whole.

3 Q. Would you take a look at the document that we
4 marked today as 2729, it's the three-page
5 document that has your handwriting on a number
6 of those pages, might have been the last
7 document we marked.

8 A. 2729?

9 Q. Yes.

10 A. Okay.

11 Q. If you would take a look at the back of the
12 second page --

13 A. Okay.

14 Q. -- on the right-hand side there, maybe a third
15 of the way down, I think you said that said
16 reserves for bad debts. See where I'm
17 referring to?

18 A. Oh, yeah, okay.

19 Q. Do you have any recollection as to what you
20 were referring to by that notation?

21 A. Might have been a throwback to banking.

22 Q. Do you recall as to whether there was any issue
23 at AHERF with respect to the reserves AHERF had
24 set for its bad debts?

25 A. No, I don't remember any discussion.

49 (Pages 190 to 193)

WALTER WILLIAMSON

Page 194

1 Q. At any time?

2 A. No. Reserve for bad debts, I think that might

3 have been a throwback, you know, why didn't we,

4 because usually in banking that would have been

5 loan write-offs.

6 Q. Are you saying that there was an issue that

7 AHERF wasn't reserving enough for its bad

8 debts? I'm not clear.

9 A. Well, this is something that -- that I put

10 down, you know, did we have such a thing,

11 should we have such a thing, but I don't

12 remember it tying into any financial things at

13 all.

14 Q. When you just a few moments ago talked about

15 relying on the audit committee, was it your

16 expectation that if the audit committee had

17 been made aware that there were irregularities

18 in the financial statements of AHERF, that they

19 would have taken some action to further

20 investigate --

21 MR. WALKER: Objection.

22 Q. -- the issues related thereto?

23 A. I certainly hope so, if they found anything,

24 that they would come back to the board and said

25 this is what we found and we are going to

Page 195

1 investigate it.

2 Q. And you have no reason to believe that they

3 wouldn't have taken any action had they been

4 informed that there were irregularities in

5 AHERF's financial statements --

6 A. No.

7 Q. -- do you?

8 MR. WALKER: Objection.

9 Q. I'm sorry, you ever to make your response

10 audible.

11 A. No, no, no, that's where I certainly would have

12 counted on them to come back.

13 MS. MEADEN: I don't believe I --

14 well, if you'll give me 30 seconds to look

15 through my notes, I may be done here.

16 ----

17 (There was a discussion off the record.)

18 ----

19 BY MS. MEADEN:

20 Q. Oh, I do have a couple more questions.

21 On this issue related to the vesting

22 of a deferred compensation plan, I'm just

23 trying to get in my mind the time period. You

24 believe it was before bankruptcy?

25 A. Yes.

Page 196

1 Q. And you believe it was before Mr. Abdelhak's

2 employment --

3 A. Right.

4 Q. -- with AHERF was terminated?

5 A. Right.

6 Q. What was the purpose of bringing this issue to

7 the board? Do you recall? Was it

8 informational? Were you being asked to vote on

9 it?

10 A. I think it had gone by, but it was one of those

11 things that had already been done, and it

12 was -- I'm not sure whether it was

13 informational or whether it came up because we

14 were supposed to -- let's see, what do they

15 call it when you do something and then you want

16 it approved.

17 Q. Ratified?

18 A. I guess that would be it, ratified, that this

19 had taken place.

20 Q. Do you recall actually being asked to vote on

21 it then?

22 A. I don't remember that. I just remember that I

23 thought it was really goofed up, and it upset

24 me to see something like that happen.

25 Q. And you spoke up about it at that time?

Page 197

1 A. Yes.

2 MS. MEADEN: All right. I don't

3 believe I have any further questions. Thank

4 you. Mr. Walker may.

5 MR. WALKER: Nothing for me.

6 MR. VINCLER: Let me just explain.

7 You have the right to waive signature on this,

8 or you can take a look at this and make sure it

9 was taken down properly.

10 It's my recommendation to you that

11 you waive signature unless you really want to

12 read this.

13 THE WITNESS: No, I'd like to see it,

14 but I'm going to waive signature on it.

15 THE VIDEOGRAPHER: With there being

16 no further questions, this deposition is

17 concluded. Thank you.

18 ----

19 (The proceedings were concluded at 3:52 p.m.)

20 ----

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WALTER WILLIAMSON

Page 198

1 COMMONWEALTH OF PENNSYLVANIA) CERTIFICATE
2 COUNTY OF ALLEGHENY) SS:

3 I, Heidi H. Willis, RPR, CRR, a Court Reporter
4 and Notary Public in and for the Commonwealth of
5 Pennsylvania, do hereby certify that the witness,
6 WALTER WILLIAMSON, was by me first duly sworn to
7 testify to the truth, the whole truth, and nothing
8 but the truth; that the foregoing deposition was
9 taken at the time and place stated herein; and that
10 the said deposition was recorded stenographically by
11 me and then reduced to printing under my direction,
12 and constitutes a true record of the testimony given
13 by said witness.

14 I further certify that the inspection, reading
15 and signing of said deposition were waived by counsel
16 for the respective parties and by the witness.

17 I further certify that I am not a relative or
18 employee of any of the parties, or a relative or
19 employee of either counsel, and that I am in no way
20 interested directly or indirectly in this action.

21 IN WITNESS WHEREOF, I have hereunto set my hand
22 and affixed my seal of office this 25th day of June,
23 2004.

24 _____
25 Notary Public

Woodward Dep.

In The Matter Of:

AHERF v.
PRICEWATERHOUSE COOPERS LLP

THOMAS C. WOODWARD
July 22, 2004

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WOODWARD, THOMAS C.



<p style="text-align: right;">Page 74</p> <p>1 Thomas C. Woodward</p> <p>2 MR. BOCCASSINI: Objection.</p> <p>3 A. I would say very little because the point</p> <p>4 would be that this document would only direct the</p> <p>5 analyst and ultimately the approvers to consider</p> <p>6 these things, to think about these things, but in</p> <p>7 many cases, particularly where there were overriding</p> <p>8 factors or other mitigants or things that just</p> <p>9 rendered the conclusions that might otherwise be</p> <p>10 drawn here is really just not that relevant, so</p> <p>11 again, like I said, using my expression from</p> <p>12 earlier, we wouldn't do anything in a vacuum.</p> <p>13 So if there were points that were being</p> <p>14 suggested for consideration here, it was really at</p> <p>15 the end of the day with the approval. The approval</p> <p>16 would really need to decide whether or not these</p> <p>17 things were important, whether or not they were</p> <p>18 relevant and whether or not they ultimately were</p> <p>19 going to affect his or her decision to move forward</p> <p>20 with an approval. But it was within the approver's</p> <p>21 prerogative to do with this what they would want to</p> <p>22 do with it, is I guess what I would --</p> <p>23 Q. Okay.</p> <p>24 When First Union was reviewing the</p> <p>25 financial statements to determine whether the credit</p>	<p style="text-align: right;">Page 76</p> <p>1 Thomas C. Woodward</p> <p>2 assembled around a credit undertaking would</p> <p>3 typically include a risk assessment summary, which</p> <p>4 could be a memo or a document. It could be --</p> <p>5 again, depending on the circumstances, it could be</p> <p>6 upwards of 20 pages. If it was deemed necessary, it</p> <p>7 could be a very brief memo. It would just depend on</p> <p>8 what the circumstances were that the approver would</p> <p>9 feel important and required to help in reaching a</p> <p>10 decision on a particular credit. But the package</p> <p>11 would include not only the narrative in this risk</p> <p>12 assessment summary, but it could also include</p> <p>13 various memos or other exhibits, things that had</p> <p>14 been collected along the way that were helpful in</p> <p>15 the understanding of the borrower's situation or</p> <p>16 other circumstances, and then it would also of</p> <p>17 course include the financial spreadsheets which</p> <p>18 would be, as we previously discussed, these</p> <p>19 reductions from the audited or reviewed financial</p> <p>20 statements given by the borrower.</p> <p>21 Q. I'm going to show you what has previously</p> <p>22 been marked as Exhibit 2086 to the witness, and I'm</p> <p>23 also going to show the witness what has been marked</p> <p>24 as Exhibit 74.</p> <p>25 Mr. Woodward, I'm going to have you</p>
<p style="text-align: right;">Page 75</p> <p>1 Thomas C. Woodward</p> <p>2 would be renewed, what were the analyses that would</p> <p>3 play an important role in the final determination?</p> <p>4 MS. MCGUIRE: Objection.</p> <p>5 MR. BOCCASSINI: Objection to form.</p> <p>6 A. The individual approver employed by the bank</p> <p>7 typically would look at, I think I said this</p> <p>8 earlier, the overall financial condition of the</p> <p>9 borrower as well as any other factors that were</p> <p>10 relevant in why we would want or not want to do a</p> <p>11 loan or to continue in our relationship or to</p> <p>12 modify, change the terms of the credit.</p> <p>13 Q. And when they reviewed the overall financial</p> <p>14 condition, was there any particular document that</p> <p>15 would show First Union's analysis of the overall</p> <p>16 financial condition?</p> <p>17 MR. BOCCASSINI: Objection.</p> <p>18 A. I'm sorry. Can you repeat the question?</p> <p>19 Q. What I'm trying to get at is just trying to</p> <p>20 find out whether there is a particular summary or</p> <p>21 document that addresses the financial performance of</p> <p>22 HUH which was used as the determining factor for the</p> <p>23 approver with determining whether to renew the line</p> <p>24 of credit.</p> <p>25 A. Yeah; I mean we -- the package that would be</p>	<p style="text-align: right;">Page 77</p> <p>1 Thomas C. Woodward</p> <p>2 juggling a few documents right now. I want to first</p> <p>3 direct your attention back to Exhibit 2668, which is</p> <p>4 your October 21, 1996 risk assessment summary.</p> <p>5 A. Okay.</p> <p>6 Q. I'm just trying to get clarification on your</p> <p>7 statement in the last sentence on this page,</p> <p>8 which --</p> <p>9 MS. MCGUIRE: What page are you looking</p> <p>10 at?</p> <p>11 Q. -- is 903, which says "1994 includes combined</p> <p>12 hospital and university operation; 1995 is the only</p> <p>13 true audited financial statement for the hospital</p> <p>14 alone (our borrower) and 1996 is extracted from the</p> <p>15 footnotes and schedules provided in the audited</p> <p>16 statement for the new Obligor Group."</p> <p>17 My question is: With respect to the</p> <p>18 phrase 1995 is the only true audited financial</p> <p>19 statement for the hospital alone, were you referring</p> <p>20 to Exhibit 2086?</p> <p>21 A. To the best of my recollection, yes. Is this</p> <p>22 document one that you pulled from our file?</p> <p>23 Q. No, I'm not sure what file these are from.</p> <p>24 I'm not sure of its production, but it is not from</p> <p>25 the most reason one, Covier production.</p>

Page 78

1 Thomas C. Woodward

2 A. My belief is yes unless we had a different

3 document in our file, but I believe this is the

4 document.

5 Q. And these are the fiscal year 1996 -- I mean

6 this is the fiscal year 1995 financial statement for

7 HUH; is that correct?

8 A. That appears to be what it says, yeah.

9 Q. The next phrase you have in your October 21,

10 '96 memo states that "1996 is extracted from the

11 footnotes and schedules provided in the audited

12 statement for the new Obligor Group." And this

13 obligor group is DVOG, correct?

14 A. Yeah, I believe so, yes.

15 Q. Were you referring to the financial

16 statements that are in Exhibit 74?

17 A. Yes. I'm sorry. Yes.

18 Q. When you say "1996 is extracted from the

19 footnotes and schedules," which footnotes and

20 schedules are you referring to?

21 A. Page 23 and Page 24 of that document.

22 Q. And on Page 23 and 24 are there financial

23 statements for HUH?

24 A. The column entitled "Allegheny Center City

25 Hospital" is the column we used.

Page 79

1 Thomas C. Woodward

2 Q. And this is the column that you used for the

3 spreadsheet that was attached to Exhibit 2668?

4 A. Yes --

5 MR. BOCCASSINI: Objection to form.

6 A. -- I believe.

7 MS. MCGUIRE: That's okay. You can

8 answer. Go ahead.

9 A. I believe, yes, that's -- I believe the

10 numbers --

11 Q. Mr. Woodward, I want to now show you what

12 will be marked as Exhibit 2669. It bears the Bates

13 stamp WACH 00780 through 802.

14 (Exhibit 2669 was marked for

15 identification.)

16 A. Okay.

17 Q. This document is addressed to you; is that

18 correct?

19 A. Yes.

20 Q. And it's a letter dated August 29, 1995 from

21 Michael Burke?

22 MR. WITTEN: Objection as to the form.

23 A. It appears to be, yeah.

24 Q. Who is Michael Burke?

25 A. I don't remember, but according to this, it

Page 80

1 Thomas C. Woodward

2 says he is a paralegal working for Allegheny Health,

3 Education, Research Foundation.

4 Q. And this is a cover letter enclosing the grid

5 note for the HUH line of credit?

6 MR. BOCCASSINI: Objection.

7 MR. WITTEN: Objection.

8 A. This says enclosing the allonge to the grid

9 note.

10 Q. Let me have you take a look at WACH 783.

11 A. Okay.

12 Q. Is this the grid note that governed the First

13 Union line of credit -- I'm sorry -- the HUH line of

14 credit?

15 Take as much time as you need to --

16 A. No, no.

17 To the best of my knowledge, yes, I

18 believe this is the underlying note or, I should

19 say, a copy of it, yeah.

20 Q. Are the terms of this note similar to the

21 terms of other lines of credit that First Union

22 provided?

23 MR. BOCCASSINI: Objection.

24 MS. MCGUIRE: Objection.

25 A. That would -- I would have to say no, if it's

Page 81

1 Thomas C. Woodward

2 a yes or no answer.

3 Q. I'm just trying to get an idea if this is the

4 standard --

5 A. No, to mark a note up like this -- I mean, as

6 you can see, it is a preprinted form. It is a form

7 note that might have been used, but with the amount

8 of modification and the number of riders that have

9 been -- this is a heavily negotiated document.

10 Q. Under the terms of the grid note was HUH

11 required to provide financial statements to First

12 Union?

13 MR. BOCCASSINI: Objection.

14 A. It doesn't appear to be a condition of the --

15 or I don't see it in this document as being a

16 requirement.

17 Q. Are there any financial covenants in this

18 grid note?

19 MS. MCGUIRE: Objection to form.

20 MR. BOCCASSINI: Objection.

21 MR. WITTEN: Objection.

22 A. The financial covenant defined as a -- like a

23 current ratio or something like that?

24 Q. Exactly.

25 A. I don't believe I see anything here to that

<p style="text-align: right;">Page 82</p> <p>1 Thomas C. Woodward</p> <p>2 effect, no.</p> <p>3 Q. Why is there no financial covenant in this</p> <p>4 grid note?</p> <p>5 MR. WITTEN: Objection as to foundation.</p> <p>6 Objection as to form.</p> <p>7 MR. BOCCASSINI: Same objection.</p> <p>8 Q. You can still answer.</p> <p>9 A. To the best of my knowledge, the credit</p> <p>10 facility that the bank was offering Hahnemann</p> <p>11 University was an offering facility. It was not a</p> <p>12 contractual commitment to lend money. Therefore,</p> <p>13 the bank, to my recollection at that time, would not</p> <p>14 have typically included financial covenants or other</p> <p>15 contractual attributes in this kind of a note. This</p> <p>16 note was established to evidence indebtedness but</p> <p>17 really nothing beyond that.</p> <p>18 Q. So First Union did not determine that it was</p> <p>19 necessary to have a financial covenant to protect</p> <p>20 its line of credit with HUH?</p> <p>21 MR. WITTEN: Objection --</p> <p>22 MS. MCGUIRE: Objection.</p> <p>23 MR. BOCCASSINI: Objection.</p> <p>24 MR. WITTEN: -- as to form and object as</p> <p>25 to lack of foundation.</p>	<p style="text-align: right;">Page 84</p> <p>1 Thomas C. Woodward</p> <p>2 MS. MCGUIRE: Objection.</p> <p>3 A. Yes, this wasn't --</p> <p>4 MS. MCGUIRE: You can answer.</p> <p>5 A. Well, obviously there are things in this</p> <p>6 note, but it is not -- this note was not intended to</p> <p>7 be a comprehensive loan agreement with a lot of</p> <p>8 covenants or things like that that would have</p> <p>9 required monitoring and that kind of thing. It's</p> <p>10 not a loan agreement; it's a note.</p> <p>11 Q. Take a look at Page 784, and I would direct</p> <p>12 your attention to Section D with the heading "Events</p> <p>13 of Default." Pursuant to Section D of the grid</p> <p>14 note, when would an event of default occur?</p> <p>15 A. Well, according to this document subject to</p> <p>16 the various riders, and there are quite a few of</p> <p>17 them here, that they are enumerated as, number one,</p> <p>18 a breach of any term within the requirements of the</p> <p>19 note, bankruptcy, insolvency, death, reorganization,</p> <p>20 material misstatement or an adverse change.</p> <p>21 Q. It is hard to read that.</p> <p>22 A. I can't read what No. 5 is. It's cut off.</p> <p>23 The confession of judgment, garnishment, things like</p> <p>24 that were a substantial --</p> <p>25 Q. What you are reading now, are those remedies</p>
<p style="text-align: right;">Page 83</p> <p>1 Thomas C. Woodward</p> <p>2 A. Given the absence of covenants in the</p> <p>3 approval and in the understanding, I would have to</p> <p>4 speculate that the approvers at the time determined</p> <p>5 that they did not need financial covenants.</p> <p>6 Q. How did First Union monitor compliance with</p> <p>7 the grid note?</p> <p>8 MR. BOCCASSINI: Objection.</p> <p>9 MS. MCGUIRE: Objection.</p> <p>10 A. I don't -- the line of credit on an offering</p> <p>11 basis was simply the bank would either choose or not</p> <p>12 choose to offer to make a loan and, in addition to</p> <p>13 that activity, there, as I previously said, was a</p> <p>14 routine financial review of the overall financial</p> <p>15 condition of the borrower and it would be in the</p> <p>16 course of that review that the bank would make the</p> <p>17 determination to either renew or not renew, to</p> <p>18 continue doing this or to not do this.</p> <p>19 So that was really how they conformed</p> <p>20 their activities with respect to this relationship</p> <p>21 with the borrower.</p> <p>22 Q. So in the term of the grid note there was no</p> <p>23 monitoring of the terms because it's just not how</p> <p>24 the agreement operated?</p> <p>25 MR. BOCCASSINI: Objection.</p>	<p style="text-align: right;">Page 85</p> <p>1 Thomas C. Woodward</p> <p>2 or events of default?</p> <p>3 A. No, that is a continuation of events. There</p> <p>4 are seven or eight of them there, transfer of assets</p> <p>5 and so forth.</p> <p>6 Q. Okay.</p> <p>7 I'm going to provide you with a clearer</p> <p>8 version of the grid note to show the missing part of</p> <p>9 Section D. This is going to be Exhibit 2686. There</p> <p>10 is a jump in the exhibit numbers.</p> <p>11 MS. MCGUIRE: 2686?</p> <p>12 MR. PAYNE: Yes. It bears -- it has the</p> <p>13 Bates stamps Foley 21277 through 21287.</p> <p>14 Q. Mr. Woodward, if you could turn to Page</p> <p>15 21282?</p> <p>16 A. Okay.</p> <p>17 Q. Is this an additional copy of the grid note</p> <p>18 that governed the HUH line of credit?</p> <p>19 MR. BOCCASSINI: Objection to form.</p> <p>20 A. It appears to be incomplete, but it appears</p> <p>21 to be -- what is of it appears to be consistent with</p> <p>22 the other exhibit you gave me.</p> <p>23 Q. Incomplete in what way?</p> <p>24 A. The signature page is missing. It stops at</p> <p>25 Page 4.</p>

Page 146

1 Thomas C. Woodward
2 6/6. Is that why there are two ratings?
3 A. Yes.
4 Q. And when we see in First Union or First
5 Fidelity documents a 5/5, does the first number then
6 correspond to the borrower's grade or the borrower's
7 rating?
8 A. Yes.
9 Q. And the second refers to the risk rating of
10 that particular transaction?
11 A. That's correct.
12 Q. So on this first page, am I reading this
13 correctly, I see on the bottom right it says,
14 "Borrower grade: 51"?
15 A. Yes.
16 Q. How does that match up with the 1 through 9
17 system that you had previously described?
18 A. It's a 5. I'm not sure why the 1 is there.
19 That might be a typographical error.
20 Q. I see. We can set this document aside.
21 Thanks.
22 A. Okay.
23 Q. I'm going to hand the court reporter a
24 document with Bates Nos. WACH 895 through 901 to
25 mark as Exhibit 2692.

Page 147

1 Thomas C. Woodward
2 (Exhibit 2692 was marked for
3 identification.)
4 Q. Do you have Exhibit 2692 before you?
5 A. Yes, I do.
6 Q. Can you tell me what this document is?
7 A. I mentioned earlier that I used the term
8 facility ticket when I described the document that
9 First Fidelity had used.
10 Q. Yes.
11 A. This is in the First Union system now at that
12 time known as an 1146. It's their version of a
13 facility ticket, and it attempted to, much like the
14 other one I had described, to set forth the basic
15 terms of an approval, the exposure and any other
16 servicing or other data input that might be involved
17 in the approval or restructuring or extension of a
18 credit facility.
19 Q. Can you take a look at Page 897?
20 A. Okay.
21 Q. Do see your name there, signature there,
22 twice?
23 A. Yes.
24 Q. Is that your signature?
25 A. Yes.

Page 148

1 Thomas C. Woodward
2 Q. And is that -- I see it's dated next to your
3 signature twice 10/21/96?
4 A. Uh-huh.
5 Q. Is that your handwriting?
6 A. Uh-huh.
7 Q. Does this 1146 credit approval request form,
8 does this correspond to the decision to extend that
9 grid note five months through March 31, 1997?
10 A. Yes, that's what this would have been doing.
11 Q. Can you please take a look at the first page?
12 A. Okay.
13 Q. Do you see the rectangle just in the bottom
14 half of the document that says "Indicate the
15 Following"?
16 A. Uh-huh.
17 Q. And then it says "A, purpose: To fund timing
18 differences in the collection of patient
19 receivables"?
20 A. Uh-huh.
21 Q. Can you elaborate upon what the purpose of
22 the money was to be used for?
23 A. To fund accounts receivable is what that
24 would have meant.
25 Q. If the accounts receivable weren't what they

Page 149

1 Thomas C. Woodward
2 were portrayed to be, then the -- let me take that
3 back.
4 If that's the stated -- if to fund
5 timing differences and the collection of patient
6 receivables is the stated purpose of the grid note,
7 then it is important to note what is the accurate
8 amount of accounts receivable that Hahnemann
9 University Hospital had; is that right?
10 MR. PAYNE: Objection.
11 A. Yeah. I mean if the stated purpose of a loan
12 is to support accounts receivable, you would be
13 interested or one would be interested in knowing not
14 only the overall level of the receivables, but also
15 the average rate at which they are being collected
16 as well as any other issues with slow pay or
17 uncollectible, so forth.
18 Q. Under B, under, it says, "Repayment
19 Source/Method," then "Primary, cash flow from
20 operations."
21 A. Uh-huh.
22 Q. What does that mean?
23 A. That would be in the normal course of
24 business the conversion cycle of receivables coming
25 back into cash as well as any earnings that would

Page 150

1 Thomas C. Woodward
 2 together represent the cash flow of an enterprise.
 3 Q. And to understand the cash flow from the
 4 enterprise, an accurate statement of the
 5 enterprise's income is important; is that right?
 6 A. That's the only way you can do it.
 7 Q. The secondary repayment source/method here
 8 says, quote, bank refinancing?
 9 A. Yes.
 10 Q. And that refers to the consolidated line of
 11 credit that was expected --
 12 A. Yes.
 13 Q. -- at that time?
 14 A. Yes.
 15 Q. If both these repayment sources were viewed
 16 by you as dubious, I take it that would have
 17 affected your credit assessment?
 18 MR. PAYNE: Objection.
 19 A. Yes.
 20 Q. We can put this document aside.
 21 MR. WITTEN: Can you mark this as 2693?
 22 (Exhibit 2693 was marked for
 23 identification.)
 24 Q. Mr. Woodward, do you have before you what has
 25 been marked as Exhibit 2693 with Bates Nos. WACH

Page 151

1 Thomas C. Woodward
 2 00777 through 778?
 3 A. Yes.
 4 Q. Please take a moment to look at this document
 5 and let me know, after you have, what the document
 6 is?
 7 A. This is the second allonge to the grid note.
 8 Q. If you take a look at the second page with
 9 me, do you see that it is dated October 31, 1996?
 10 A. Yes.
 11 Q. And take a look at the first page now. Do
 12 you see that under Paragraph 1, "Amendments," the
 13 maturity date has been changed from October 31, 1996
 14 to March 31, 1997?
 15 A. Yes.
 16 Q. Is this Exhibit 2693 the allonge that
 17 extended the grid note by five months?
 18 A. Yes.
 19 Q. You can set this aside.
 20 MR. WITTEN: Can you mark this as 2694?
 21 (Exhibit 2694 was marked for
 22 identification.)
 23 Q. Mr. Woodward, do you have before you what the
 24 court reporter has marked as Exhibit 2694 --
 25 A. Yes.

Page 152

1 Thomas C. Woodward
 2 Q. -- with Bates No. WACH 00735?
 3 A. Yes.
 4 Q. Can you please tell me what this document is?
 5 A. This is an interoffice memorandum that I
 6 prepared.
 7 Q. Is it a memo from you to the Hahnemann
 8 University Hospital file?
 9 A. Credit file, yes.
 10 Q. And is it dated February 20, 1997?
 11 A. Yes.
 12 Q. And is that your signature here on the
 13 bottom?
 14 A. Yes.
 15 Q. Do you happen to remember this particular
 16 memo?
 17 A. I don't particularly remember it.
 18 Q. In this memo at the beginning you confirm
 19 that the new RC agent by Mellon is in
 20 documentation. What's an RC?
 21 A. Revolving credit.
 22 Q. That's the consolidated line of credit that
 23 we discussed earlier?
 24 A. Yes.
 25 Q. And it says, "Payout of our line of credit to

Page 153

1 Thomas C. Woodward
 2 occur on or before 3/15/97." Do you see that?
 3 A. Yes.
 4 Q. The final sentence here, third paragraph,
 5 final sentence, says, "No additional analysis at
 6 this time due to the pending payoff as previously
 7 anticipated." Do you see that?
 8 A. Uh-huh.
 9 Q. Do you recall actually not doing analysis
 10 because of your expectation that the Mellon line of
 11 credit was in documentation?
 12 MS. MCGUIRE: Objection to form.
 13 A. I don't recall one way or another, but it
 14 would appear that I chose to waive it.
 15 Q. Why would you have been performing analysis
 16 at this time frame but for the Mellon revolving
 17 credit, "this time frame" being February 20, 1997?
 18 A. I believe we had Hahnemann -- and I believe I
 19 saw this in one of the exhibits earlier today -- we
 20 had Hahnemann as a semiannual servicing profile,
 21 meaning that -- from the scoring sheets that this
 22 was one that would he looked at twice a year, so the
 23 December midyear with the June fiscal year end would
 24 typically be the way we would do the twice-a-year
 25 look.

39 (Pages 150 to 153)

CERTIFICATE

I HEREBY CERTIFY that the proceedings,
evidence and objections are contained fully and
accurately in the stenographic notes taken by me
on July 22, 2004, and that this is a true and
correct transcript of same.

Cynthia A. Whyte, RPR

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Zwirn Dep.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PENNSYLVANIA

THE OFFICIAL COMMITTEE OF
UNSECURED CREDITORS OF
ALLEGHENY HEALTH, EDUCATION
& RESEARCH FOUNDATION,
Plaintiff, .

vs.

Civil Action

PRICEWATERHOUSECOOPERS,
LLP,
Defendant.

No. 00-684

Videotaped Deposition of ALBERT
ZWIRN, called for examination under the
Applicable Rules of Federal Civil Procedure,
taken before me, Michele E. Eddy, a Registered
Professional Reporter and Notary Public in and
for the State of Ohio, pursuant to notice and
stipulations of counsel, at the offices of
Jones Day, 500 Grant Street, Suite 3100,
Pittsburgh, Pennsylvania, on Thursday, the 20th
day of November, 2003, at 9:00 a.m.

- - - - -

Albert Zwirn

Page 22

1 value would be and what its market value would
2 be?

3 MR. LUFT: Objection.

4 A. Yes. The book value would be
5 basically the cost -- the stocks and bonds,
6 whatever, the cost of them that is in the --
7 that is in the endowment at the bank itself,
8 the market value would be what those stocks or
9 bonds or whatever it is could be sold at -- in
10 the market.

11 Q. Mr. Zwirn, I've referenced the term
12 Lockhart before.

13 Do you recall there being
14 irrevocable endowments that AGH was originally
15 the income beneficiary for, later transferred
16 to AHERF, in the name of Lockhart?

17 A. I guess I'm not that familiar with
18 the term irrevocable, but I believe that the
19 endowments that at one time I believe that were
20 in AGH did go to AHERF, I believe that's
21 correct, yes, sir.

22 Q. Did you do the account -- did you
23 do the accounting for those trusts?

24 A. Yes, sir.

25 Q. From 1972 until how long?

Page 24

1 For the record, I have marked a
2 large collection of documents that bears the
3 Bates numbers DBR-ZWR-01962 through 02639.

4 Q. Mr. Zwirn, I'm going to ask you to
5 just quickly flip through this document.
6 Obviously I can't ask you to look at every page
7 in detail. That would take a very long time,
8 unfortunately.

9 A. Yes.

10 Q. Have you had a chance to flip
11 through it already?

12 A. Yes, sir.

13 Q. Good enough to recognize it?

14 A. Yes, sir.

15 Q. Do you recall this collection of
16 documents?

17 A. Yes, sir.

18 Q. Was this a collection of documents
19 that was in your files?

20 A. Yes, sir.

21 Q. And how do you know that?

22 A. Well, I remember it. When you
23 say -- is that what you mean?

24 Q. Yeah.

25 The first page has some handwriting

Page 23

1 A. I stopped doing the main bulk of
2 them around the fall of 1990. That was given
3 to somebody else. And then I kept just the
4 Allegheny General Hospital endowments until
5 approximately the 1st of January of 1997.

6 Q. Until -- I'm sorry -- what happened
7 in January of 1997?

8 A. Again, those endowments were
9 transferred to other people, the accounting for
10 them.

11 Q. So then you no longer even
12 accounted for AGH endowments after 1997?

13 A. That's right.

14 Q. Have you had any responsibility for
15 accounting for endowments today at all?

16 A. Not really. No, I have very little
17 contact or anything with endowments today.
18 Almost nothing.

19 MR. TORBORG: I would like to mark
20 this.

21 - - - - -

22 (Thereupon, Deposition Exhibit 2221
23 was marked for purposes of
24 identification.)
25 - - - - -

Page 25

1 at the top. It says -- I think there's a T
2 there. Endowments, trusts, agency and other
3 amounts or accounts?

4 A. Accounts, m-hm.

5 Q. Is that your handwriting?

6 A. Yes, sir.

7 Q. And the next page indicates table
8 of contents and correspondence. Is that your
9 handwriting?

10 A. I believe it is, yes, sir.

11 Q. Do you recall making this
12 collection of documents available in response
13 to a document subpoena?

14 A. Yes, sir.

15 Q. Issued by the SEC?

16 A. Yes, sir.

17 Q. I want to mark another -- actually,
18 I don't want to mark this, but I want to show
19 it to you.

20 Do you mind if I keep this one?

21 MR. THURMAN: No. I'm going to
22 give this one back to you, in fact.

23 Q. For the record, this particular
24 document was marked as Exhibit 4111 two days
25 ago at a deposition. I don't want to remark

7 (Pages 22 to 25)

Albert Zwirn

<p style="text-align: right;">Page 26</p> <p>1 it, but, just for the record, it's the same 2 document. It also bears an Exhibit number SEC 3 134 from the SEC investigative proceedings. 4 Mr. Zwirn, if you would take a flip 5 through that document briefly. 6 A. Yes, sir. 7 Q. Do you recognize this collection of 8 documents? 9 A. Yes, sir. 10 Q. Now, this one has a cover page on 11 it that says Allegheny General Hospital 12 Endowments, Trusts, Agency and Other Accounts. 13 Right? 14 A. Yes. 15 Q. Which matches the front page at 16 least in terms? 17 A. Yes. 18 Q. Not in form, but in terms? 19 A. Yes. 20 Q. Do you recall that you gave that -- 21 I'm sorry. Strike that. 22 Do you recall that the SEC took 23 possession of a collection of documents that 24 was in a black binder? 25 A. Yes, sir.</p>	<p style="text-align: right;">Page 28</p> <p>1 A. I mean, I would obviously, I would 2 have to go through every single page, but it 3 appears to be the same. 4 Q. Yes. 5 Do you know why there wasn't a copy 6 of the cover page on this copy that we see in 7 Exhibit 2221? 8 A. No, I don't. 9 Q. But was the copy that -- was the 10 collection of documents that you had during 11 your time at AHERF before the SEC took this 12 document, was it what we've marked as Exhibit 13 4111? 14 A. This one here? 15 Q. Yes. 16 A. I believe it was, yes, sir. 17 Q. It wasn't what I've marked as 2221? 18 A. Well, okay -- 19 MR. LUFT: Objection. 20 A. I think that basically, I mean, 21 except if I went page by page, but basically 22 they're probably the same except for the cover 23 itself. 24 Q. I believe there are some slight 25 differences.</p>
<p style="text-align: right;">Page 27</p> <p>1 Q. They took the original copy? 2 A. Yes, sir. 3 Q. What did the original version of 4 the black binder, how was it -- how was it 5 connected? Do you recall? 6 A. How was it bound? 7 Q. Yes, how was it bound? 8 A. I think with a metal fastener. 9 Q. At the top? Do you recall if it 10 was at the top? 11 A. No, I believe it was through the 12 side, the left side. 13 Q. It was to the side? 14 A. Yes, sir. 15 Q. And did you make a copy -- 16 A. Yes, sir. 17 Q. -- of that document before they 18 took it away? 19 A. By that document you mean -- 20 Q. Exhibit 4111, the one that has the 21 sticker SEC 134. The one that has a typed 22 written cover page. 23 A. Yes, sir. 24 Q. Is that copy -- do you believe that 25 copy to be the document I've marked as 2221?</p>	<p style="text-align: right;">Page 29</p> <p>1 A. Okay. 2 Q. Which -- 3 A. That may be. 4 Q. Which I can go through. They're 5 not significant. 6 But do you recall making a copy 7 that has SEC 134 on the top of it when the SEC 8 came in and took possession of the original? 9 MR. LUFT: Objection. 10 Q. Do you recall making a copy at that 11 time? 12 MR. LUFT: Objection. 13 A. I actually don't remember. I 14 think -- I did make a copy so I could have a 15 copy for my files. That's all. 16 Q. Do you recall whether you had two 17 different collections of what is in substance 18 what we see in both of these documents? 19 Did you have two different 20 collections of them, or did you just have the 21 one binder that was bound? 22 A. I think I just had the one. You 23 mean originally? 24 Q. Yes. Before the SEC came in. 25 A. Originally just the one.</p>

8 (Pages 26 to 29)

Albert Zwirn

<p style="text-align: right;">Page 58</p> <p>1 the account number 500-022?</p> <p>2 A. Yes, sir. Again, assuming that</p> <p>3 it's a copy of the original, yes, sir.</p> <p>4 Q. Yes.</p> <p>5 And do you recall whether or not</p> <p>6 your binder always had a copy of this endowment</p> <p>7 in it?</p> <p>8 MR. LUFT: Objection.</p> <p>9 A. I believe it did.</p> <p>10 MR. TORBORG: What's the nature of</p> <p>11 the objection?</p> <p>12 MR. LUFT: In light of his caveat</p> <p>13 that he doesn't know if this is the same what's</p> <p>14 originally in his binder and to ask if he knows</p> <p>15 that this is what was in his binder, it lacks</p> <p>16 foundation and is unfair.</p> <p>17 Q. Do you see anything unfair about my</p> <p>18 question? Am I asking you an unfair question?</p> <p>19 A. No, sir.</p> <p>20 MR. LUFT: I don't think his</p> <p>21 opinion on that matters.</p> <p>22 Q. Do you recall whether you added</p> <p>23 this particular document to your binder?</p> <p>24 A. No, I don't believe I did, no, sir.</p> <p>25 Q. If we could go to Bates ending 2221</p>	<p style="text-align: right;">Page 60</p> <p>1 A. Again, I believe it was in the</p> <p>2 binder, yes, sir.</p> <p>3 Q. Does it appear to be a copy of the</p> <p>4 endowment agreement for account number 510-000?</p> <p>5 A. Yes, sir. Again, you know,</p> <p>6 assuming that it's a copy of the original, it</p> <p>7 does, yes, sir.</p> <p>8 Q. Do you recall that this particular</p> <p>9 agreement was in your binder --</p> <p>10 A. Yes, sir.</p> <p>11 Q. -- at all times?</p> <p>12 MR. LUFT: Objection.</p> <p>13 A. As far as I know it was, yes, sir.</p> <p>14 Q. Now, let me clean up something.</p> <p>15 For all four of the trusts I've</p> <p>16 gone through so far, do you recall adding any</p> <p>17 missing pages at any point, recalling I'm</p> <p>18 missing some pages, I need to add some?</p> <p>19 MR. LUFT: Objection.</p> <p>20 A. No, sir.</p> <p>21 Q. If we could flip, please, to Bates</p> <p>22 ending 2240. Actually, why don't we start with</p> <p>23 2238.</p> <p>24 Have you had an opportunity to look</p> <p>25 at 2238?</p>
<p style="text-align: right;">Page 59</p> <p>1 through 2233.</p> <p>2 Mr. Zwirn, do you recognize this</p> <p>3 document?</p> <p>4 A. Again, I believe it's what was in</p> <p>5 my binder, yes, sir, a copy of it.</p> <p>6 Q. Does it appear to be another copy</p> <p>7 of the indenture agreement for account number</p> <p>8 500-022?</p> <p>9 A. Again, without comparing it to the</p> <p>10 original, yes, it does.</p> <p>11 Q. Do you believe that your binder</p> <p>12 always had a copy of this --</p> <p>13 A. Yes, sir.</p> <p>14 Q. -- in the form that it is here?</p> <p>15 A. Yes.</p> <p>16 MR. LUFT: Objection.</p> <p>17 Q. You don't recall adding this</p> <p>18 particular --</p> <p>19 A. No, sir.</p> <p>20 Q. If we would go, please, to the</p> <p>21 collection that starts with Bates 2236 and goes</p> <p>22 to 2237. If you would flip through that</p> <p>23 document, please.</p> <p>24 A. Yes, sir.</p> <p>25 Q. Do you recognize this document?</p>	<p style="text-align: right;">Page 61</p> <p>1 A. Yes, sir.</p> <p>2 Q. Does this appear to be a similar</p> <p>3 sort of form page to the other five trusts?</p> <p>4 A. Yes. The other four, you mean?</p> <p>5 Q. This one for account 505-208, the</p> <p>6 Lewis A. Park?</p> <p>7 A. When you say the other four, do you</p> <p>8 mean --</p> <p>9 Q. Yes.</p> <p>10 A. -- similar to the other four you</p> <p>11 mean?</p> <p>12 Q. Yes.</p> <p>13 A. Yes, sir.</p> <p>14 Q. Then if you look at the one page,</p> <p>15 2240, does this appear to be missing some</p> <p>16 pages --</p> <p>17 MR. LUFT: Objection.</p> <p>18 Q. -- of this particular document?</p> <p>19 Can you tell from looking at this?</p> <p>20 MR. LUFT: You said looking at this</p> <p>21 one page?</p> <p>22 Q. Yes, did it appear as though it's</p> <p>23 not a complete copy of an endowment agreement,</p> <p>24 Mr. Zwirn?</p> <p>25 A. Yes, sir. Yes, sir.</p>

16 (Pages 58 to 61)

Albert Zwirn

<p style="text-align: right;">Page 62</p> <p>1 Q. Do you recall ever having concerns 2 that you may not have had a full copy of this 3 particular endowment agreement? 4 A. No, sir. 5 Q. You don't recall any discussions 6 with anyone -- 7 A. No, sir. 8 Q. -- about that? 9 A. No, sir. 10 Q. Do you know if you had a full copy 11 of this particular trust agreement anywhere 12 else in your files? 13 A. The only thing I had in my files 14 was that one binder. 15 Q. Mr. Zwirn, if I could ask you, do 16 you recall ever having a discussion with anyone 17 about the availability of the increase in the 18 principal value of any of the five AHERF trusts 19 from the original contribution amount? In 20 other words, the difference between the book 21 value -- I'm sorry, strike that. Let me start 22 over. 23 Do you recall ever having any 24 discussions with anyone regarding the 25 availability to AHERF of the increase in value</p>	<p style="text-align: right;">Page 64</p> <p>1 Q. Do you recall who was your boss in 2 the time period of 1995 through 1997? 3 A. I can't -- I honestly don't 4 remember. I've had so many bosses, I don't 5 know. 6 No. I think, from '95 to '97, it 7 may have been Mr. Will Barry at that time. 8 MR. TORBORG: Now is probably a 9 good time to take a quick break. We've been 10 going awhile. 11 THE VIDEOGRAPHER: Off the record 12 at 1:33. 13 (Recess had.) 14 THE VIDEOGRAPHER: On the record at 15 1:43. 16 Q. Welcome back, Mr. Zwirn. 17 I've asked you to put your finger 18 on 2138, as well as 2146. 19 2138 I think we identified earlier 20 as the first page of what appears to be a copy 21 of the indenture agreement for account 500-007, 22 right? 23 A. Yes, sir. 24 Q. And if you go to 2146, please, I'm 25 going to be reading some language on the record</p>
<p style="text-align: right;">Page 63</p> <p>1 reported in the account number on the balance 2 sheet from the original contribution amounts 3 for any of the five AHERF trusts? 4 A. The availability, you mean what? 5 I'm not sure what you mean. 6 Q. Whether AHERF could get access to 7 those -- to that increase in value. 8 A. I don't recall that specifically. 9 Q. Do you recall ever having any 10 discussions with anyone about the availability 11 of monies from the Lockhart Trust other than 12 net income? 13 A. Not specifically, no, I don't. 14 Q. Do you remember anything generally? 15 A. Not really. I did the accounting 16 the same as I always did. 17 Q. If AHERF's external auditors wanted 18 to get a copy of your binder that you 19 maintained, would you have given them a copy of 20 it? 21 MR. LUFT: Objection. 22 A. I probably would have just 23 mentioned it to my boss to make sure that it 24 was okay, but I don't see why there would have 25 been any objection.</p>	<p style="text-align: right;">Page 65</p> <p>1 on Article X, Roman X, are you with me there? 2 A. Yes, sir. 3 Q. That article provides, "In case of 4 securities taken or purchased for the trust 5 fund at a premium, the trust shall not be 6 required to set aside any part of the income 7 thereof as a sinking fund to retire or absorb 8 such premium or to make any other provision for 9 such depreciation in the value of the 10 securities constituting the trust fund by 11 reason of the approaching maturity of said 12 securities or otherwise. 13 "In case of the sale of any 14 securities of the trust fund at a premium or 15 profit, such premium or profit shall become a 16 part of the corpus and not income." 17 Do you recall discussing that -- 18 any of the language that I just read into the 19 record with anyone specifically? 20 A. No, sir. 21 Q. Do you recall having discussions 22 with anyone about language in any of the five 23 trusts that we've looked at? 24 A. I do not, no, sir. 25 Q. Do you recall that effective for</p>

17 (Pages 62 to 65)

Albert Zwirn

Page 70

1 Bates number ending 68 is titled AHERF or
2 Allegheny Health, Education and Research
3 Foundation Endowment Classes.

4 Then it lists some endowments on
5 the left-hand corner which include the five
6 AHERF trusts that we've talked about today.

7 A. M-hm.

8 Q. As well -- and on the far
9 right-hand column there's a column called
10 Original Contribution.

11 A. Yes, m-hm.

12 Q. And then some attachments starting
13 at Bates ending 70 through 74 that -- do these
14 appear to provide support for the contribution
15 amounts that are listed in that column on Bates
16 ending 68?

17 MR. LUFT: Objection.

18 A. I'm sorry, on what page, sir?

19 Q. Bates ending 68.

20 Does it appear --

21 A. You mean backup like?

22 Q. Yes.

23 A. I -- I don't know. This is not
24 familiar to me.

25 Q. Okay. So you don't recall being

Page 72

1 throughout your entire time at AHERF?

2 A. Not that I recall, no, sir.

3 You mean written correspondence,
4 that kind of thing?

5 Q. No, just oral correspondence, any
6 discussions.

7 A. Well, they used to come in, check
8 my work papers to make sure that the
9 endowment -- the principal agreed with the
10 trust statements and the income was the same.

11 Q. Do you recall whether anyone from
12 Coopers & Lybrand ever asked to see your binder
13 of documents?

14 A. I don't recall that.

15 Q. Do you recall if anyone at Coopers
16 & Lybrand knew that you had a collection of
17 documents?

18 A. I don't know that.

19 Q. And when -- I'm sorry, so the
20 record is clear, when I say collection of
21 documents, I meant the --

22 A. The binder.

23 Q. The binder.

24 A. I don't recall that.

25 Q. Mr. Zwirn, do you have any contact

Page 71

1 involved in helping determine the original
2 contribution amount for the five AHERF trusts?

3 A. I don't recall that specifically.
4 It's possible, but I don't recall it
5 specifically.

6 Q. Yeah. I guess what I'm trying to
7 ask is whether you were involved in the --
8 strike that.

9 Do you recall being asked to
10 provide information from the trust documents so
11 that others could come up with the contribution
12 amounts, the original contribution amounts of
13 the five AHERF trusts?

14 A. I don't recall that specifically.

15 Q. Do you know -- and if you don't
16 know, that's fine -- do you know if anyone from
17 Coopers & Lybrand, who was AHERF's external
18 auditor throughout much of the time you were
19 there, whether they knew that you had a copy of
20 trust agreements in your files?

21 A. I don't know that.

22 Q. You don't know?

23 A. No, sir.

24 Q. Did you ever have any
25 correspondence with anyone at Coopers & Lybrand

Page 73

1 with the three Lockhart trusts today?

2 MR. LUFT: Objection.

3 A. Today?

4 Q. Yes.

5 A. No. No, sir.

6 Q. You're not involved in the
7 accounting for those today?

8 A. No. That ended -- the three of the
9 five from those five that you originally talked
10 about? Yes. No. The accounting for that?

11 Q. M-hm.

12 A. I stopped that around the fall of
13 1990.

14 MR. TORBORG: Mr. Zwirn, I have no
15 further questions at this time. I appreciate
16 your time and patience.

17 EXAMINATION OF ALBERT ZWIRN

18 BY MR. LUFT:

19 Q. Mr. Zwirn, if you would just give
20 me a brief second.

21 A. Sure.

22 Q. Stay on the record. I'll check if
23 I have anything I would like to ask you about.

24 Mr. Zwirn, you mentioned your black
25 binder. I believe Mr. Torborg asked you how it

19 (Pages 70 to 73)

Albert Zwirn

Page 74

1 was held together.
 2 A. Yes, sir.
 3 Q. I think you said some type of metal
 4 fastener.
 5 A. Yes, sir.
 6 Q. Now, when you say, I'm just trying
 7 to understand, is that the type of metal
 8 fastener that you could stick through paper and
 9 open up and close?
 10 A. Yes, sir.
 11 Q. So you could open it up, take
 12 things out, close it?
 13 A. Yes, sir.
 14 Q. And just to be clear, I think
 15 you've said a number of times this morning that
 16 you stopped working on the accounting for the
 17 Lockharts in the fall of 1990?
 18 A. Yes, sir.
 19 Q. I know you said you didn't recall
 20 ever speaking to Coopers & Lybrand about the
 21 Lockharts, but if, perhaps, you had a
 22 conversation about work papers regarding
 23 Lockhart, such as the time you mentioned about
 24 Coopers & Lybrand, that would have been
 25 sometime before the fall of 1990?

Page 75

1 A. Yes, sir.
 2 MR. LUFT: I have no further
 3 questions.
 4 MR. TORBORG: I have no follow-up.
 5 Thanks again.
 6 THE VIDEOGRAPHER: Off the record
 7 at 1:58.
 8
 9 (Deposition concluded.)
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Page 76

1 CERTIFICATE
 2 The State of Ohio,)
 3 SS:
 4 County of Cuyahoga.)
 5
 6 I, Michele Eddy, a Notary Public
 7 within and for the State of Ohio, duly
 8 commissioned and qualified, do hereby certify
 9 that the within named witness, ALBERT ZWIRN,
 10 was by me first duly sworn to testify the
 11 truth, the whole truth and nothing but the
 12 truth in the cause aforesaid; that the
 13 testimony then given by the above-referenced
 14 witness was by me reduced to stenotypy in the
 15 presence of said witness; afterwards
 16 transcribed, and that the foregoing is a true
 17 and correct transcription of the testimony so
 18 given by the above-referenced witness.
 19 I do further certify that this
 20 deposition was taken at the time and place in
 21 the foregoing caption specified and was
 22 completed without adjournment.
 23
 24
 25

Page 77

1 I do further certify that I am not a
 2 relative, counsel or attorney for either party,
 3 or otherwise interested in the event of this
 4 action.
 5 IN WITNESS WHEREOF, I have hereunto
 6 set my hand and affixed my seal of office at
 7 Cleveland, Ohio, on this day of
 8 , 2003.
 9
 10
 11
 12
 13
 14 Michele Eddy, Notary Public
 15 Within and for the State of Ohio
 16
 17 My commission expires May 22, 2005.
 18
 19
 20
 21
 22
 23
 24
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20 (Pages 74 to 77)